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| APPLICATION NO.   | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO.   | CONFIRMATION NO. |
|---|-------------|----------------------|-----------------------|------------------|
| 10/792,309  | 03/03/2004  | Adam C. Bedford      | STE01 P-1164          | 4641             |
| 277   | 7590        | 02/01/2005           | EXAMINER              |                  |
| PRICE HENEVELD COOPER DEWITT & LITTON, LLP<br>695 KENMOOR, S.E.<br>P O BOX 2567<br>GRAND RAPIDS, MI 49501 |             |                      | WHITE, RODNEY BARNETT |                  |
|   |             | ART UNIT             |                       | PAPER NUMBER     |
|   |             |                      |                       | 3636             |

DATE MAILED: 02/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.



## Office Action Summary

|                 |                 |              |                |
|-----------------|-----------------|--------------|----------------|
| Application No. | 10/792,309      | Applicant(s) | BEDFORD ET AL. |
| Examiner        | Rodney B. White | Art Unit     | 3636           |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) Responsive to communication(s) filed on 15 July 2004.  
2a) This action is FINAL.                    2b) This action is non-final.  
3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) Claim(s) 1-28 is/are pending in the application.  
4a) Of the above claim(s) 21-28 is/are withdrawn from consideration.  
5) Claim(s) \_\_\_\_\_ is/are allowed.  
6) Claim(s) 1-20 is/are rejected.  
7) Claim(s) \_\_\_\_\_ is/are objected to.  
8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) The specification is objected to by the Examiner.  
10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) All    b) Some \* c) None of:  
    1. Certified copies of the priority documents have been received.  
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) Notice of References Cited (PTO-892)  
2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
    Paper No(s)/Mail Date 7/15/2004.
- 4) Interview Summary (PTO-413)  
    Paper No(s)/Mail Date. \_\_\_\_\_.  
5) Notice of Informal Patent Application (PTO-152)  
6) Other: \_\_\_\_\_.

**DETAILED ACTION**

**DETAILED ACTION**

***Election/Restrictions***

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-20, drawn to a control housing with synchronous movement and an on-off selector device, classified in class 297, subclass 300.2.
- II. Claim 21, drawn to a back frame, classified in class 297, subclass 452.63 and 284.4.
- III. Claims 22-28, drawn to the back frame and headrest, classified in class 297 and, subclass 452.18, 397,400, and 410.

The inventions are distinct, each from the other because of the following reasons:

Inventions I, II, and III are related as combination and subcombination.

Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because the control housing can be patentable on its structure and operability alone without any reliance on the back frame structure and the headrest. The subcombinations have separate utility such as the back frame and headrest of the present invention can be one of any

structural make-ups and neither has anything to do with the operability of the control housing and because the variety of headrests can be attached to the upper portion of the backrest.

Because these inventions are distinct for the reasons given above and the search required for Group I is not required for Group II or III, restriction for examination purposes as indicated is proper.

During a telephone conversation with Daniel Gridwood (#34,827) on January 27, 2005, a provisional election was made without traverse to prosecute the invention of I, claims 1-20. Affirmation of this election must be made by applicant in replying to this Office action. Claims 21-28 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 1-28 are rejected under 35 U.S.C. 102(b) as being anticipated by Faiks et al (U.S. Patent No. 5,026,117).

Faiks et al teach the structure as claimed. See the Abstract, the Figures 1-10, and the specification.

Claims 1-28 are rejected under 35 U.S.C. 102(b) as being anticipated by Faiks et al (U.S. Patent No. 5,160,184).

Faiks et al teach the structure as claimed. See the Abstract, the Figures 1-26, and the specification.

Claims 1-28 are rejected under 35 U.S.C. 102(e) as being anticipated by Holbrook et al (U.S. Patent No. 6,585,320 B2).

Holbrook et al teach the structure as claimed. See the Abstract, the Figures, and the specification.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Herold teach a structure similar to the present invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rodney B. White whose telephone number is (703) 308-2276 (This number will be (571) 272-6863 if the move to the new U.S. Patent & Trademark facility in Alexandria, Virginia has been completed).

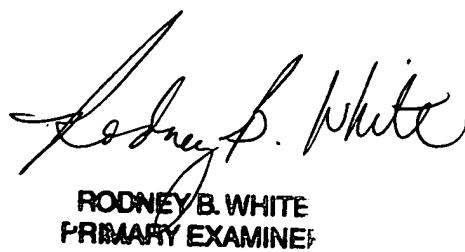
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Cuomo can be reached on (703) 308-0827 (This number will be (571)

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272-6856 if the move to the new U.S. Patent & Trademark facility in Alexandria, Virginia has been completed). The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Rodney B. White,  
Patent Examiner  
Art Unit 3636  
January 27, 2005



RODNEY B. WHITE  
PRIMARY EXAMINER